



W.P.No.7558 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 08.04.2025

ORDERS PRONOUNCED ON: 22.05.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7558 of 2024
and W.M.P.Nos.8475, 8478, 8480 & 8481,
12024, 27787 of 2024 & 2802 of 2025

1.Gremaltes Referral Hospital & Leprosy Centre
Rep.by its Director / Ex-officio Secretary
A.Marianathan

2.A.Marianathan
3.Jacob Mathew
4.Rev.Dr.Kurian Thomas
5.Baby Joseph
6.Dhas GK

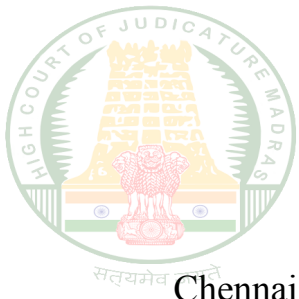
.. **Petitioners**

Vs.

1.The Registrar of Societies
District Registrar Office – Chennai Central
No.182, Bharathi Salai, Royapettah
Chennai – 600 014.

2.D.Mahesh
3.Commissioner of Police
No.132, EVK Sampath Road, Vepery

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Chennai – 600 007.

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4.Durai

Assistant Commissioner

Kilpauk G-3 Police Station

36, HX, SH 114, Sastrinagar

Chetpet, Chennai – 600 031.

5.J.Ravichandran

6.C.Chidambaram

7.Dr.Thomas Abraham

8.G.R.Srinivasan

9.Esther Beulah Devakumari

10.T.Jayaraj Devadas

11.Thomas Philip

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with order No.12109/D1/2023 dated 29.02.2024 and quash the same and direct the official respondents to ensure that the petitioners 2 to 8 can continue to function peacefully as office bearers of the 1st petitioner Society and pass such further or other orders.

For the Petitioners : Mr.V.Prakash
Senior Counsel
for Mr.Adrian D.Rozario

For the Respondents : Mr.R.Sasikumar
Government Advocate
for RR1 & 2
Dr.C.E.Pratap



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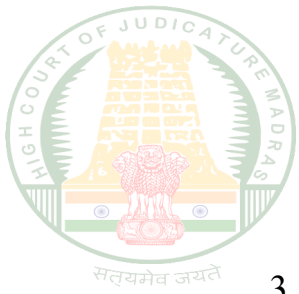
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Government Advocate (Crl. Side)
for RR3 & 4
Mrs.Chithra Sampath
Senior Counsel
for Mr.J.Saravanavel
for RR5 to 11

ORDER

This Writ Petition is filed to call for the records relating to the impugned order dated 29.02.2024, passed by the 1st respondent, namely the Registrar of Societies, to quash the same and consequently direct the official respondents to ensure that petitioners 2 to 8 can continue to function peacefully as office bearers of the 1st petitioner – Society.

2. The case of the petitioner is that the 1st petitioner, viz., Gremaltes Referral Hospital & Leprosy Centre, is a Society registered under the Tamil Nadu Societies Registration Act, 1975, vide No.18 of 1978, dated 29.03.1980. It functions with the objective of creating awareness about leprosy, early diagnosis, treatment, care, and rehabilitation for leprosy and other health problems for needy patients. The 1st petitioner – Society has its own bylaws.



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3. The petitioners, 2, 4, and 5, were elected and continue as Director / Ex-Officio Secretary, Chairperson, and Vice-Chairperson, respectively. On 23.11.2022, the respondents 4 to 11 requested the 2nd petitioner to convene an Extraordinary General Body Meeting, claiming that the election of the office bearers was incomplete on 24.09.2022. This request is contrary to the bylaws of the Society. On 26.11.2022, respondents 6 and 11 were removed by a resolution communicated to them on 30.11.2022. However, the private respondents illegally convened an Extraordinary General Body Meeting on 11.01.2023 and made illegal resolutions changing the office bearers. Subsequently, they entered the office of the 2nd petitioner and demanded his resignation on 03.05.2023. Due to this coercion, a complaint has also been lodged by the 2nd petitioner. However, the private respondents proceeded to cause disruption by informing the banks and the authorities as if there had been a change of office bearers, resulting in the account being frozen.

4. Under these circumstances, the Writ Petition was filed in W.P.No.24613 of 2023, directing the 1st respondent to conduct an enquiry. Thereafter, on 11.03.2024, the private respondents entered the office of the 2nd petitioner with a



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police force led by the Assistant Commissioner of Police, Kilpauk, and the petitioners were forcibly removed from the hospital. Only then was the order of the 1st respondent dated 29.02.2024 served on the petitioners. Aggrieved by this, the petitioners are approaching this Court.

5. The petitioners contend that, for extraneous and malafide reasons, the 1st respondent and the Assistant Commissioner of Police aided the private respondents in usurping the Society, which was lawfully administered by the petitioners. The petitioners rely on the Full Bench Judgment of this Court in *C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal, through its Secretary – Sri S.David Stephen Vs. The District Registrar and Others*¹ and the Judgment in *R.Nalla Thambi Vs. The District Registrar (Administration) and Registrar of Societies and Others*² to argue that it was beyond the scope of the 1st respondent to conduct an enquiry and request that the Writ Petition be allowed.

6. The Writ Petition is resisted by the respondents by filing separate

¹ 2005 2 LW 550

² (2011) 3 CTC 817



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counter affidavits. As per the counter affidavit filed by the 1st respondent, it is stated that the 1st petitioner - Gremaltes Referral Hospital & Leprosy Centre is a registered Society and upto the year 2021 – 2022 only statements under Section 16 (3) (b) of the Tamil Nadu Societies Registration Act and Form – VII have been duly filed and registered. In the year 2022, the minutes of the Annual General Body meeting held on 24.09.2022 for the year 2021 – 2022 was scrutinised as per Rule 50 of the Tamil Nadu Societies Registration Rules, 1978 and the circular of the Inspector General of Registration in No.3 of 2022 and the letter No.8413/12/2013 dated 27.05.2022, and were taken on file and registered. Thereafter, the External General Body Meeting was conducted on 11.02.2023 and was submitted before the 1st respondent. As such, the Form VII affecting change as per the decision in the Extraordinary General Body Meeting dated 11.01.2023 has been taken on file and registered by the 1st respondent. When disputes arose between the parties regarding the functioning of the Managing Committee, specifically concerning allegations related to the prevention of a legally elected management committee from accessing the Society's documents and performing their roles and responsibilities, a direction was sought from the 1st respondent. The aggrieved parties were directed to seek a remedy before the



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appropriate Civil Court or police authority. They contend that their grievances are beyond the scope of the Registrar of Societies, leading to the issuance of the impugned order dated 29.02.2024.

7. Since the Assistant Commissioner of Police has been impleaded by name as the 4th respondent, a counter affidavit has been filed on his behalf. It is stated that the Managing Committee of the Society submitted a representation to the Deputy Commissioner of Police, Kilpauk, on 09.03.2024, seeking police protection to ensure that the legally elected Managing Committee could access the hospital premises and office to take over the affairs of the Society. It is noted that several improprieties were being committed by unauthorized individuals who are running the Society, and this was forwarded to the Assistant Commissioner of Police, Kilpauk, for appropriate action. Accordingly, necessary protection was provided to the Managing Committee, as they complained of obstruction by *Mr. Marianathan* and his associates. There is no malafide or excessive action on the part of the 4th respondent. The 4th respondent has no personal interest or bias against any individual of the Society and only followed the due process of law to ensure that no untoward incident occurs.



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8. The 9th respondent filed a counter affidavit on behalf of herself and respondents 5 to 8, 10, and 11. They contend that an affidavit was filed by the 2nd petitioner on behalf of the Society. The 2nd petitioner was a paid employee of the Society and was appointed as Director on 09.09.2009, with his contract of service expiring on 30.11.2022. After the contract expired, an election was held on 11.01.2023, but the 2nd petitioner refused to cooperate with the newly elected office bearers and colluded with petitioners 3 to 6. Together, they continued to prevent the office bearers from performing their duties with the aid of muscle men. Consequently, the Managing Committee, by its resolution dated 15.03.2023, terminated the 2nd petitioner from his duties and responsibilities. The 2nd petitioner was directed to hand over the charge to the 9th respondent, as she was appointed as a Director to provide honorary services starting from 03.05.2023. The 2nd petitioner was served with a letter dated 03.05.2023 by the duly elected Chairperson, the 5th respondent. However, under the instructions of petitioners 3 to 6, the 2nd petitioner refused to hand over the charge and forcibly continued to act as Director by employing bouncers, thus preventing the newly elected office bearers, respondents 5 to 7 and 9, from administering and



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managing the Society. On 11.03.2024, the 2nd respondent finally handed over the charge to the 9th respondent, who is currently serving as the Director-cum-Secretary on an honorary basis. The endorsement made by the 2nd petitioner, handing over the charge for administration on 11.03.2024, has also been presented before this Court.

9. The private respondents contend that the impugned order has been issued within the limited powers that can be exercised by the 1st respondent, according to Section 36 of the Tamil Nadu Societies Registration Act. The 1st respondent issued the order solely based on the *prima facie* finding regarding the correctness of the particulars provided in Form – VII filed by respondents 5 to 11, following the Extraordinary General Body Meeting held on 11.01.2023. Even the judgment relied upon by the petitioners supports this position.

10. It is submitted that both sides were provided ample opportunities before the impugned order was passed. The respondents 5 to 11 further contend that the 45th Annual General Meeting of the Society took place on 24.09.2022. The agenda included the election of office bearers. The 5th respondent's name



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was proposed as Chairperson. During the meeting, questions were raised regarding irregularities in the financial reports. Sensing that the respondents were in the majority, the petitioners 2 to 6 abruptly ended the meeting without completing the election process. The respondents 5 to 11 did not receive a copy of the minutes of the Annual General Body Meeting despite a request made by the 2nd petitioner. Consequently, by letter dated 23.11.2022, seven members of the Society requested the 2nd petitioner to convene an Extraordinary General Body Meeting, in accordance with Rule 23 (2) of the Bylaws of the Society.

11. While so, on 06.12.2022, the 2nd petitioner rushed to file Forms VI and VII, dated 02.12.2022, before the 1st respondent, after respondents 5 to 11 called for the Extraordinary General Body Meeting. In Forms VI and VII, the list of governing body members for the year 2021 to 2022, filed by the 2nd petitioner, shows respondents 6 and 11 as members of the Society. Petitioners 2, 3, and 4 claimed to have conducted a Managing Committee Meeting on 26.11.2022 and asserted that they decided to remove respondents 6 and 11 from the Society's membership. However, no such meeting ever took place. Respondents 6 and 11 received a letter dated 30.11.2022 only on 20.01.2023 and 03.02.2023,



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respectively, through registered post, stating they had been removed from membership as per the decision of 26.11.2022. There was neither a Managing Committee Meeting on 26.11.2022 nor were any elections held on 24.09.2022.

12. It is the case of the respondents that according to bylaw No. 4, a member may be removed only by a resolution made by 3/4^{ths} of the members present and voting in the General Body Meeting. The Managing Committee cannot remove a managing committee member. Therefore, the alleged resolution dated 26.11.2022 is *ex-facie* void. In these circumstances, the respondent office bearers called for a Managing Committee Meeting on 15.03.2023 and resolved to file Form VII with the 1st respondent. It was also resolved to take appropriate action against the 2nd petitioner, and his contractual term was terminated effective from 03.05.2023. In his place, the 9th respondent was appointed as the Director. The Form VII was also filed on 20.02.2023 and was taken on record by the 1st respondent by order dated 27.04.2023.

13. Therefore, it is their case that, following the conduct of a new election in a Society comprising only 15 members, respondents 5 to 11 hold an



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undeniable majority. Despite the proper election process and the acceptance of Form VII, it is only the petitioners who are attempting to usurp control of the Society from the respondents. Consequently, they pray that the Writ Petition be dismissed.

14. Heard, *Mr. V. Prakash*, the learned Senior Counsel appearing on behalf of the petitioners; *Mr. R. Sasikumar*, the learned Government Advocate appearing for respondents 1 and 2; *Dr. C. E. Pratap*, the learned Government Advocate appearing for respondents 3 and 4; and *Mrs. Chitra Sampath*, the learned Senior Counsel appearing on behalf of respondents 5 to 11.

15. Both sides Learned Senior Counsel pointing out that the bylaws presented detailed arguments regarding the merits to justify the positions of the petitioners and the respondents 5 to 11, respectively. However, considering the nature of the order to be passed, addressing those contentions on their merits is unnecessary.

16. It is evident that the petitioners assert they remain the elected office



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bearers, while the respondents contend they were elected as the office bearers of the Society during a subsequently convened Extraordinary General Body Meeting. When conflicts arise between the two groups in the Society, the matter is no longer *res integra*, as it has been settled by the Hon'ble Full Bench of this Court in ***C.M.S. Evangelical Suvi David Memorial Higher Secondary School Committee's case*** (cited supra). The scope of the Registrar's powers was examined in detail, and the nature of these powers was discussed in paragraphs 17 to 19. It was determined that the scope of the Registrar's power is solely to arrive at a *prima facie* conclusion regarding the correctness of the particulars provided in Form VII, and with respect to election disputes, including their validity, it is the Civil Court that has the competence to rule. It is crucial to extract paragraph No.18 of the said Judgment, which reads as follows:-

“ 18. The power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under Section 36, the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of section 36 shows that the Registrar could look only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No. VII in order to effect change in the register. The power of the Registrar to call for information and explanation under Section 34 does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in



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our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the Writ Jurisdiction.”

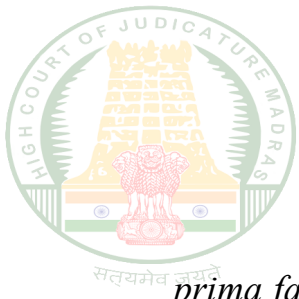
17. In view thereof, it can be observed that in the instant case, when the Extraordinary General Body Meeting was purportedly held by respondents 5 to 11 and Form VII was filed to claim a set of new office bearers, a prima facie enquiry has already been conducted by the 1st respondent. It is an admitted fact that orders have been passed registering the said Form VII. Therefore, even if there is a direction to conduct an enquiry, the 1st respondent cannot delve into the question of who was validly elected, etc. When the parties approach the 1st respondent, the jurisdiction has been distinctly delineated by the Full Bench, and the 1st respondent can only conclude that the parties must seek remedy through the appropriate Civil Court. As a matter of fact, in the impugned order, on internal page No. 40, under the heading 'C', the 1st respondent reached the conclusion. Thus, once the 1st respondent has recorded in the impugned order that orders have already been passed under Form VII, it is up to the aggrieved party to challenge the registration of Form VII or claim such relief before the



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appropriate Civil Court. The detailed order, referencing various other findings made by the 1st respondent, is unnecessary as it addresses the merits and validity of the election, including the validity of the removal of members and whether the appropriate procedure has been followed. Even in the final direction, relegating the parties to the Civil Court, the term 'police authority' was added.

18. Even if the 1st respondent includes 'police authorities', their scope would arise only if there are law and order situations. The videograph of the entire episode was played in open court. It can be seen that the petitioners were in office, where the office bearers went along with the police officer, discussions were held in the presence of the police officer, and the charge was handed over. While no physical force or threat is actually seen, it should also be noticed that the charge is handed over in the presence and participation of the police officer. Only by the impugned order was a handle given to respondents 5 to 11 to approach the police authority, and that was made possible. Therefore, it can only be concluded that there is a scramble for possession. The entire episode can only be viewed as both the petitioners and respondents, 5 to 11, attempting to wrest control of the Society. The role of the 1st respondent is limited to conducting



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prima facie enquiries regarding Form VII. Following this, if respondents 5 to 11 claim that their exercise of rights is being interfered with by the petitioners, they must approach the Civil Court. Similarly, if the petitioners assert that they are entitled to remain in office and that the election of respondents 5 to 11 is illegal, they must seek appropriate relief before the Civil Court.

19. Therefore, I hold that the other findings in the impugned order were unnecessary and unwarranted, and will not, in any way, bind the parties. The impugned order is upheld only to the limited extent that it relegates the parties to the Civil Court. Both parties are entitled to approach the Civil Court, and it is clarified that the Civil Court will determine the issue and pass the decree solely based on the merits of the case of the parties. Similarly, the questions relating to interim orders shall also be determined with reference to the legalities pleaded by the parties as per the by-laws and not with reference to possession.

20. It is recorded that there is a scramble for possession and the handing over of charge has taken place merely because an erroneous order was passed by the 1st respondent, entitling respondents 5 to 11 to approach the police



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authorities. Therefore, the interim question, if any, as to who can continue to be in the administration shall be decided by the Civil Court, *dehors* the possession/handing over of the charge, by considering only the prima facie merits of the parties. Both sides will be entitled to move the Civil Court with a website-uploaded copy of the order, without waiting for the certified copy.

21. With the above directions, this Writ Petition is disposed of. No costs are awarded. Consequently, the associated miscellaneous petitions are closed.

22.05.2025

Neutral Citation : Yes
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To
1.The Registrar of Societies
District Registrar Office – Chennai Central
No.182, Bharathi Salai, Royapettah
Chennai – 600 014.

2.The Commissioner of Police
No.132, EVK Sampath Road, Vepery
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